

SENATE BILL NO. 2370

Introduced by

Senators Fischer, Mathern, Hogue, Wardner

Representatives Conrad, Wieland

1 A BILL for an Act to amend and reenact sections 25-03.1-09, 25-03.1-10, and 25-03.1-13 of the
2 North Dakota Century Code, relating to mental health commitment costs.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 25-03.1-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **25-03.1-09. Review of petition for involuntary treatment - Probable cause**
7 **established - Respondent notified - Rights.**

- 8 1. Upon the filing of a petition for involuntary treatment, the clerk of court shall
9 immediately notify the magistrate who shall review the petition and accompanying
10 documentation to determine whether it complies with requirements of section
11 25-03.1-08 and whether it establishes probable cause to believe the respondent is
12 a person requiring treatment. If probable cause has not been so established, the
13 petition must be dismissed unless an amendment would cure the defect.
- 14 2. If probable cause has been established, the magistrate shall cause to be served on
15 the respondent and the respondent's nearest relative or guardian or, if none, a
16 friend of the respondent:
- 17 a. A copy of the petition and supporting documentation.
- 18 b. A notice informing the respondent of the procedures required by this chapter.
- 19 c. A notice of the respondent's right to a preliminary and a treatment hearing
20 when in custody under section 25-03.1-25 and if mental illness or a
21 combination of mental illness and chemical dependency of the respondent is
22 alleged in the petition, or, if not in custody or if in custody and chemical
23 dependency alone is alleged in the petition, the right to a treatment hearing; of
24 the right to be present at the hearings; of the right to have counsel before the

1 hearings and any court-ordered examination; of the right to an independent
2 evaluation; and, if the respondent is indigent, of the right to counsel and to an
3 independent expert examiner, each at the expense of the ~~county which is the~~
4 ~~respondent's place of residence~~ state.

- 5 d. Notice that if an independent expert examiner is to be appointed, the
6 respondent must be given an opportunity to select that examiner.

7 **SECTION 2. AMENDMENT.** Section 25-03.1-10 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **25-03.1-10. Involuntary treatment - Court-ordered examination.** If the petition is not
10 accompanied by a written supportive statement of a psychiatrist, physician, or psychologist who
11 has examined the respondent within the last forty-five days, the court shall order the respondent
12 to be examined by an expert examiner of the respondent's own choice or one appointed by the
13 court. The order must state the date and time within which the respondent must appear; the
14 address to which the respondent is to report; a statement that if the respondent fails to appear
15 at the appointed place at or before the ordered date and time, the respondent may be
16 involuntarily taken into custody and transported to the appointed place; and a statement that the
17 expert examiner may consult with or request participation in the examination by a qualified
18 mental health professional and may include with the written examination report any findings or
19 observations by that mental health professional. Accompanying the order must be an
20 explanation of the intended uses and possible effects of this examination. The examination
21 may be conducted at a treatment facility, at the respondent's home, or at any other suitable
22 place in the community. A request for examination at the state hospital must be screened and
23 approved by a regional human service center. The respondent may be accompanied by one or
24 more relatives or friends at the place of the examination. The costs of the court-ordered
25 examination must be borne by the ~~county that is the respondent's place of residence~~ state.

26 **SECTION 3. AMENDMENT.** Section 25-03.1-13 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **25-03.1-13. Right to counsel - Indigency - Waiver - Recoupment - Limitations.**

- 29 1. Every respondent under this chapter is entitled to legal counsel. The counsel has
30 access to the respondent's medical records upon proof of representation.

- 1 2. Unless an appearance has been entered on behalf of the respondent, the court
2 shall, within twenty-four hours, exclusive of weekends or holidays, from the time
3 the petition was filed, appoint counsel to represent the respondent. If a respondent
4 retains counsel, the retained counsel shall immediately notify the court of that fact.
- 5 3. If, after consultation with counsel, the respondent wants to waive the right to
6 counsel or the right to any of the hearings provided for under this chapter, the
7 respondent may do so by notifying the court in writing. The notification must
8 clearly state the respondent's reasons for the waiver and must also be signed by
9 counsel.
- 10 4. If the court determines that the respondent is indigent, the court shall order that
11 appointed counsel be ~~compensated from county funds of the county that is the~~
12 ~~respondent's place of residence in a reasonable amount based upon time and~~
13 ~~expenses~~ provided by the commission on legal counsel for indigents. After notice
14 and hearing, the court may order a respondent with appointed counsel to
15 reimburse the ~~county~~ state for expenditures made on the respondent's behalf.
- 16 5. If the state's attorney of a the county that ~~has expended sums under subsection 4~~
17 ~~on behalf of a respondent who is liable to reimburse the county~~ is the respondent's
18 place of residence determines that the respondent may have funds or property to
19 reimburse the ~~county~~ state, the state's attorney shall seek civil recovery of those
20 sums. Commencement of the action must occur within six years after the date the
21 sums were paid.